

AMENDED IN SENATE MAY 4, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 212

Introduced by Senator Lowenthal

February 10, 2005

~~An act to amend Section 103900 of, and to add Section 103902 to, the Health and Safety Code, and to add Section 12803.5 to the Vehicle Code~~
An act to repeal Section 103900 of the Health and Safety Code, and to add Article 6 (commencing with Section 13010) to Chapter 1 of Division 6 of the Vehicle Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 212, as amended, Lowenthal. Lapses of consciousness: reports to the Department of Motor Vehicles.

(1) Under existing law, a physician and surgeon is required to report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness. Existing law requires the State Department of Health Services, in cooperation with the Department of Motor Vehicles, to define disorders characterized by lapses of consciousness, and to include within the defined disorders Alzheimer's disease and related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle. Existing law further requires the local health officer to provide this information to the Department of Motor Vehicles, for the information of that department in enforcing the Vehicle Code.

This bill would delete the existing provisions and instead would authorize a physician and surgeon to report to the Department of Motor Vehicles (DMV) in good faith specified information relating to

a patient at least 15 years of age, or 14 years of age if the patient has a conditional license, whom the physician and surgeon has diagnosed as having suffered a lapse of consciousness, or has a disorder or medical condition that may affect the person's ability to drive safely.

This bill would require a physician and surgeon to report specified information to the DMV, in writing, regarding patients the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, or with a disorder characterized by lapses of consciousness that might be recurrent, or with an impairment or disorder that compromises the patient's ability to safely operate a motor vehicle. The bill would excuse a physician and surgeon from these mandatory reporting requirements relating to lapse of consciousness disorders under designated circumstances.

This bill would require the State Department of Health Services, in cooperation with the DMV, to define disorders characterized by lapses of consciousness for purposes of the bill, and to review and update the definition as necessary. The bill would also require the department, in consultation with certain professional medical organizations, to review and update its existing guidelines for enhancing the monitoring of patients afflicted with the disorders referred to in the bill. The bill would require reports made pursuant to the bill to be kept confidential. It would exempt a physician and surgeon from civil and criminal liability for making a report required by the bill.

~~This bill instead would authorize a physician and surgeon to disclose, voluntarily and in good faith, information relating to a diagnosis of a lapse of consciousness disorder or other medical condition that may affect a patient's ability to drive safely to the Department of Motor Vehicles, and would make conforming changes. The bill would eliminate the responsibilities of the local health officer in this regard.~~

~~This bill would separately require a physician and surgeon to make a written report to the Department of Motor Vehicles identifying every patient the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, and every patient at least 15 years of age, or 14 years of age if the patient has conditional driving privileges, who suffers from an impairment or disorder that significantly compromises the patient's ability to safely operate a motor vehicle, with an exception for conditions that can be controlled or compensated for within a clinically reasonable period of time. It~~

would exempt the physician and surgeon from criminal and civil liability for making a report pursuant to the bill.

(2) Under existing law, the Department of Motor Vehicles is responsible for the issuance and renewal of drivers' licenses.

This bill would require every driver to report to the department any medical condition that is likely to cause loss of consciousness or any loss of ability to safely operate a motor vehicle, within 10 days of the driver becoming aware of this condition. The bill would require the department, in consultation with professional medical organizations, to determine the temporary conditions that are not required to be reported. The bill would authorize the department, upon receipt of a report from a driver or a physician and surgeon pursuant to the bill, to initiate an administrative hearing to review the driving privileges of the person in question. The bill would authorize the department to take adverse action against the person's driving privileges based on the evidence presented at the hearing, or to require successful passage of a reexamination test as a condition of continued licensure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 103900 of the Health and Safety Code is
- 2 repealed.
- 3 103900. (a) Every physician and surgeon shall report
- 4 immediately to the local health officer in writing, the name, date
- 5 of birth, and address of every patient at least 14 years of age or
- 6 older whom the physician and surgeon has diagnosed as having a
- 7 case of a disorder characterized by lapses of consciousness.
- 8 However, if a physician and surgeon reasonably and in good faith
- 9 believes that the reporting of a patient will serve the public
- 10 interest, he or she may report a patient's condition even if it may
- 11 not be required under the department's definition of disorders
- 12 characterized by lapses of consciousness pursuant to subdivision
- 13 (d).
- 14 (b) The local health officer shall report in writing to the
- 15 Department of Motor Vehicles the name, age, and address, of
- 16 every person reported to it as a case of a disorder characterized
- 17 by lapses of consciousness.

~~(e) These reports shall be for the information of the Department of Motor Vehicles in enforcing the Vehicle Code, and shall be kept confidential and used solely for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this state.~~

~~(d) The department, in cooperation with the Department of Motor Vehicles, shall define disorders characterized by lapses of consciousness based upon existing clinical standards for that definition for purposes of this section and shall include Alzheimer's disease and those related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle in the definition. The department, in cooperation with the Department of Motor Vehicles, shall list those circumstances that shall not require reporting pursuant to subdivision (a) because the patient is unable to ever operate a motor vehicle or is otherwise unlikely to represent a danger that requires reporting. The department shall consult with professional medical organizations whose members have specific expertise in the diagnosis and treatment of those disorders in the development of the definition of what constitutes a disorder characterized by lapses of consciousness as well as definitions of functional severity to guide reporting so that diagnosed cases reported pursuant to this section are only those where there is reason to believe that the patients' conditions are likely to impair their ability to operate a motor vehicle. The department shall complete the definition on or before January 1, 1992.~~

~~(e) The Department of Motor Vehicles shall, in consultation with the professional medical organizations specified in subdivision (d), develop guidelines designed to enhance the monitoring of patients affected with disorders specified in this section in order to assist with the patients' compliance with restrictions imposed by the Department of Motor Vehicles on the patients' licenses to operate a motor vehicle. The guidelines shall be completed on or before January 1, 1992.~~

~~(f) A physician and surgeon who reports a patient diagnosed as a case of a disorder characterized by lapses of consciousness pursuant to this section shall not be civilly or criminally liable to any patient for making any report required or authorized by this section.~~

1 *SEC. 2. Article 6 (commencing with Section 13010) is added*
2 *to Chapter 1 of Division 6 of the Vehicle Code, to read:*

3
4 *Article 6. Physician and Surgeon Reporting of Medical*
5 *Conditions*
6

7 13010. *Except as provided in Section 13011, every physician*
8 *and surgeon may in good faith report to the department in*
9 *writing, the name, date of birth, and address of every patient at*
10 *least 15 years of age, or 14 years of age if the patient has a*
11 *conditional license, whom the physician and surgeon has*
12 *diagnosed as having suffered a lapse of consciousness or who*
13 *has a disorder or another medical condition that may affect the*
14 *patient's ability to drive safely.*

15 13011. *Every physician and surgeon shall report immediately*
16 *to the department, in writing, both of the following:*

17 (a) *The name, date of birth, and address of every patient at*
18 *least 15 years of age, or 14 years of age if the patient has a*
19 *conditional license, whom the physician and surgeon has*
20 *diagnosed with Alzheimer's disease or another dementia*
21 *disorder.*

22 (b) *The name, date of birth, and address of every patient at*
23 *least 15 years of age, or 14 years of age if the patient has a*
24 *conditional license, who has been diagnosed as having a case of*
25 *a disorder characterized by lapses of consciousness that may be*
26 *recurrent or who suffers from an impairment or disorder that*
27 *compromises the patient's ability to safely operate a motor*
28 *vehicle. However, the physician and surgeon is not required to*
29 *report that patient immediately if all of the following conditions*
30 *are met:*

31 (1) *The physician and surgeon, relying on substantial medical*
32 *evidence, determines that the impairment or disorder can be*
33 *controlled and stabilized within 30 days of the initial diagnosis*
34 *by medication, therapy, surgery, or adaptive devices.*

35 (2) *The physician and surgeon intends to prescribe,*
36 *administer, or oversee the necessary treatment.*

37 (3) *The patient's condition during the 30-day period does not*
38 *pose a risk to public safety while operating a motor vehicle.*

39 (c) *If at any time in the 30-day period the physician and*
40 *surgeon determines that the patient poses an imminent risk to*

1 *public safety while operating a motor vehicle, or, if the patient's*
2 *impairment or disorder has not been controlled and stabilized at*
3 *the conclusion of the 30 days, the physician and surgeon shall*
4 *report the patient immediately to the department.*

5 *13012. A report made pursuant to this article shall be for the*
6 *information of the department in enforcing this code, and shall*
7 *be kept confidential and used solely for the purpose of*
8 *determining the eligibility of any person to operate a motor*
9 *vehicle on the highways of this state.*

10 *13013. The State Department of Health Services, in*
11 *cooperation with the department, shall define disorders*
12 *characterized by lapses of consciousness based upon existing*
13 *clinical standards for that definition for purposes of this article*
14 *and shall include Alzheimer's disease and those related*
15 *disorders that are severe enough to be likely to impair a person's*
16 *ability to operate a motor vehicle in the definition. The State*
17 *Department of Health Services, in cooperation with the*
18 *department, shall list those circumstances that shall not require*
19 *reporting pursuant to Section 13011 because the patient is*
20 *unable to ever operate a motor vehicle or is otherwise unlikely to*
21 *represent a danger that requires reporting. As it deems*
22 *necessary, the department shall consult with professional*
23 *medical organizations whose members have specific expertise in*
24 *the diagnosis and treatment of those disorders in reviewing and*
25 *updating the definition of what constitutes a disorder*
26 *characterized by lapses of consciousness as well as definitions of*
27 *functional severity to guide reporting so that diagnosed cases*
28 *reported pursuant to this article are only those where there is*
29 *reason to believe that the patients' conditions are likely to impair*
30 *their ability to operate a motor vehicle.*

31 *13014. As it deems necessary, the department, in consultation*
32 *with the professional medical organizations specified in Section*
33 *13013, shall review and update its guidelines for enhancing the*
34 *monitoring of patients afflicted with disorders referred to in this*
35 *article in order to assist with the patients' compliance with*
36 *restrictions imposed by the department on the patients' licenses*
37 *to operate a motor vehicle.*

38 *13015. A physician and surgeon who reports a patient to the*
39 *department pursuant to this article shall not be civilly or*

1 *criminally liable to any patient for making a report required by*
2 *this article.*

3 ~~SECTION 1. Section 103900 of the Health and Safety Code~~
4 ~~is amended to read:~~

5 ~~103900. (a) Every physician and surgeon may in good faith~~
6 ~~report to the Department of Motor Vehicles, in writing, the name,~~
7 ~~date of birth, and address of every patient at least 15 years of age,~~
8 ~~or 14 years of age if the patient has a conditional license, whom~~
9 ~~the physician and surgeon has personally diagnosed as having~~
10 ~~suffered a lapse of consciousness or who has a disorder or~~
11 ~~another medical condition that may affect the patient's ability to~~
12 ~~drive safely. A physician and surgeon may use the "Physician's~~
13 ~~Guide to Assessing and Counseling Older Drivers," published by~~
14 ~~the American Medical Association, or another clinically accepted~~
15 ~~method, as a means to determine the appropriateness of filing a~~
16 ~~report with the department.~~

17 ~~(b) These reports shall be for the information of the~~
18 ~~Department of Motor Vehicles in enforcing the Vehicle Code,~~
19 ~~and shall be kept confidential and used solely for the purpose of~~
20 ~~determining the eligibility of any person to operate a motor~~
21 ~~vehicle on the highways of this state.~~

22 ~~(c) The department, in cooperation with the Department of~~
23 ~~Motor Vehicles, shall define disorders characterized by lapses of~~
24 ~~consciousness based upon existing clinical standards for that~~
25 ~~definition for purposes of this section and shall include~~
26 ~~Alzheimer's disease and those related disorders that are severe~~
27 ~~enough to be likely to impair a person's ability to operate a motor~~
28 ~~vehicle in the definition. The department, in cooperation with the~~
29 ~~Department of Motor Vehicles, shall list those circumstances that~~
30 ~~are not subject to reporting pursuant to subdivision (a) because~~
31 ~~the patient is unable to ever operate a motor vehicle or is~~
32 ~~otherwise unlikely to represent a danger that merits reporting.~~
33 ~~The department shall consult with professional medical~~
34 ~~organizations whose members have specific expertise in the~~
35 ~~diagnosis and treatment of those disorders in the development of~~
36 ~~the definition of what constitutes a disorder characterized by~~
37 ~~lapses of consciousness as well as definitions of functional~~
38 ~~severity to guide reporting so that diagnosed cases reported~~
39 ~~pursuant to this section are only those where there is reason to~~
40 ~~believe that the patients' conditions are likely to impair their~~

1 ability to operate a motor vehicle. The department shall complete
2 the definition on or before January 1, 1992.

3 ~~(d) The Department of Motor Vehicles shall, in consultation~~
4 ~~with the professional medical organizations specified in~~
5 ~~subdivision (d), develop guidelines designed to enhance the~~
6 ~~monitoring of patients affected with disorders specified in this~~
7 ~~section in order to assist with the patients' compliance with~~
8 ~~restrictions imposed by the Department of Motor Vehicles on the~~
9 ~~patients' licenses to operate a motor vehicle. The guidelines shall~~
10 ~~be completed on or before January 1, 1992.~~

11 ~~(e) A physician and surgeon who reports a patient diagnosed~~
12 ~~as a case of a disorder characterized by lapses of consciousness~~
13 ~~pursuant to this section shall not be civilly or criminally liable to~~
14 ~~any patient for making any report required or authorized by this~~
15 ~~section.~~

16 ~~SEC. 2. Section 103902 is added to the Health and Safety~~
17 ~~Code, to read:~~

18 ~~103902. (a) Notwithstanding Section 103900, every~~
19 ~~physician and surgeon shall report to the Department of Motor~~
20 ~~Vehicles, in writing, both of the following:~~

21 ~~(1) The name, date of birth, and address of every patient~~
22 ~~whom the physician and surgeon has diagnosed with Alzheimer's~~
23 ~~disease or another dementia disorder.~~

24 ~~(2) The name, date of birth, and address of every patient at~~
25 ~~least 15 years of age, or 14 years of age if the patient has~~
26 ~~conditional driving privileges, who suffers from an impairment~~
27 ~~or disorder that significantly compromises the patient's ability to~~
28 ~~safely operate a motor vehicle. However, a physician is not~~
29 ~~required to report a patient with a disorder or impairment that the~~
30 ~~physician, relying on substantial medical evidence, determines~~
31 ~~may be controlled or compensated for by medication, therapy,~~
32 ~~surgery, or adaptive devices within a clinically reasonable period~~
33 ~~of time, and if the physician intends to administer or oversee the~~
34 ~~necessary treatment and the patient's condition does not pose an~~
35 ~~imminent risk to public safety. The physician is required to report~~
36 ~~a patient to the department pursuant to this section if, at any time~~
37 ~~in the course of treatment, the physician determines that the~~
38 ~~driver poses an imminent risk to public safety, or if, at the~~
39 ~~conclusion of a clinically reasonable period of time, the patient's~~

1 ~~impairment or disorder significantly compromises the patient's~~
2 ~~ability to safely operate a motor vehicle.~~

3 ~~(b) A physician and surgeon who makes a report pursuant to~~
4 ~~this section shall not be civilly or criminally liable.~~

5 ~~SEC. 3. Section 12803.5 is added to the Vehicle Code, to~~
6 ~~read:~~

7 ~~12803.5. (a) Every driver shall report to the Department of~~
8 ~~Motor Vehicles any medical condition, as defined pursuant to~~
9 ~~Section 103900 of the Health and Safety Code, that is likely to~~
10 ~~cause loss of consciousness or any loss of ability to safely~~
11 ~~operate a motor vehicle, within 10 days of the driver becoming~~
12 ~~aware of the condition. The department, in consultation with~~
13 ~~professional medical organizations, shall determine the~~
14 ~~temporary conditions not required to be reported under the~~
15 ~~provisions of this section. All information furnished to the~~
16 ~~department under this section shall be confidential.~~

17 ~~(b) Upon receipt of a report pursuant to subdivision (a) or~~
18 ~~Section 103900, within a time period to be specified by the~~
19 ~~department, or as soon as is practicable, the department may~~
20 ~~initiate an administrative hearing to review the individual's~~
21 ~~driving privileges. The individual is entitled to present medical or~~
22 ~~psychological evaluations at the hearing. The department may~~
23 ~~take adverse action against a person's driving privileges if the~~
24 ~~evidence presented indicates a likelihood that the person's~~
25 ~~condition will significantly impair his or her ability to safely~~
26 ~~operate a motor vehicle. The department may require successful~~
27 ~~passage of a reexamination test as a condition of continued~~
28 ~~licensure.~~

29 ~~(c) If good cause exists for the continuance of an~~
30 ~~administrative hearing initiated pursuant to subdivision (b), the~~
31 ~~department shall not take adverse action against a person's~~
32 ~~driving privileges unless there is substantial medical evidence~~
33 ~~that the driver poses an imminent threat to public safety.~~

34 ~~(d) A driver has good cause for the continuance of the~~
35 ~~administrative hearing if the department requires him or her to~~
36 ~~have a physician complete any medical evaluation form, the~~
37 ~~driver has made a good faith effort to have the form completed in~~
38 ~~a timely manner, and the completed form shall have not yet been~~
39 ~~submitted by a physician to the department. A driver may~~
40 ~~authorize the department to rely on any physician reports~~

1 ~~submitted pursuant to this section in lieu of a medical evaluation~~
2 ~~form required by the department.~~
3 ~~(c) The department shall provide discovery to a driver at least~~
4 ~~10 days before an administrative hearing initiated under~~
5 ~~subdivision (b) and the failure to do so is good cause for a~~
6 ~~continuance of the hearing.~~

O